

IN THE UTAH COURT OF APPEALS

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Provo City,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20050087-CA
v.)	
)	
<u>James Gedo</u> and Miguel David)	F I L E D
Gedo,)	(July 13, 2006)
)	
Defendants and Appellant.)	2006 UT App 300

Fourth District, Provo Department, 031401036
The Honorable Samuel McVey

Attorneys: Laura H. Cabanilla, Provo, for Appellant
 Vernon F. Romney, Provo, for Appellee

Before Judges Billings, McHugh, and Orme.

PER CURIAM:

James Gedo appeals from his convictions of an infraction and a class B misdemeanor. We affirm.

Gedo asserts that his due process rights were violated because Provo City did not respond to his various motions and the trial court struck the motions without a full review. Additionally, he asserts his due process rights were violated when the trial court restricted Gedo's ability to file motions directly with the trial court. Neither of these issues are well developed with reasoned legal argument. Both fail because Gedo has failed to argue or establish in any way that he suffered any harm from the alleged errors.

An error is not reversible unless it is harmful. See State v. Lafferty, 2001 UT 19, ¶35, 20 P.3d 342. An error is harmful if it undermines confidence in the verdict--"if, minus that error, there is a sufficiently high likelihood of a different outcome." Id. The complaining party bears the burden of showing harmfulness. See id. Constitutional errors are also reviewed for harmlessness. See State v. Arquelles, 2003 UT 1, ¶94 n.23, 63 P.3d 731.

Here, the trial court struck Gedo's numerous motions as irrelevant and frivolous because they were not related to the facts and charges at issue in the case below. Even if the trial court erred, which is not established here, any error would not be reversible because Gedo has shown no harm. Gedo has not asserted that any specific motion had merit and would have affected the outcome of his trial. On the contrary, he has implicitly acknowledged in his brief that the motions were, indeed, irrelevant. It is axiomatic that filing irrelevant motions will not affect the outcome of a case.

Similarly, Gedo has not identified any motion that he would have filed had he not been restricted by the trial court. In fact, Gedo could file motions through his attorney if the motions had merit. Again, Gedo has not established any prejudice from being unable to file irrelevant or unmeritorious motions. As a result, Gedo has failed to show that the alleged errors were harmful and thus reversible.

Gedo also asserts that the trial court erred in finding him competent to proceed. A trial court's factual findings will not be disturbed unless they are clearly erroneous. See Lafferty, 2001 UT 19 at ¶45. To challenge a factual finding, an appellant must "'marshal the evidence in a light most favorable to the findings of the trial court and show that evidence to be insufficient.'" Id. (citation omitted). If an appellant fails to adequately marshal the evidence, this court will assume that the findings are supported by the evidence. See Chen v. Stewart, 2004 UT 82, ¶19, 100 P.3d 1177.

Gedo has failed to marshal the evidence supporting the trial court's finding. Therefore, this court assumes that the trial court's findings were supported by the evidence.

Affirmed.

Judith M. Billings, Judge

Carolyn B. McHugh, Judge

Gregory K. Orme, Judge